ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Implementation of Section 273(d)(5) as amended by the Telecommunications Act of 1996 - Dispute Resolution Regarding Equipment Standards	GC Docket No. 96-42

MOTION TO ACCEPT LATE-FILED REPLY COMMENTS

MCI Telecommunications Corporation (MCI) respectfully requests that the Commission accept the attached reply comments filed late in the captioned proceeding. Coordination of counsel with clients, given the press of multiple filing deadlines, made it impossible to file the reply on April 11.

MCI submits that no party to the proceeding is prejudiced by the late filing of the document since it is being filed only one day late and since these are reply comments. Further, MCI is serving all parties that filed initial comments on April 1 and it is likely that the parties will receive this document in the mail no later than if it had been filed on Thursday.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

By: _____

Loretta J. Garcia
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Dated: April 12, 1996

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Implementation of Section 273(d)(5) as amended by the Telecommunications Act of 1996 - Dispute Resolution Regarding Equipment Standards	)	GC Docket No. 96-42

REPLY COMMENTS

MCI Telecommunications Corporation (MCI) respectfully submits these reply comments in the captioned docket, in which the Federal Communications Commission (FCC or Commission) proposes a dispute resolution mechanism to be used in disputes arising out of non-accredited standards development organizations. MCI supports the Commission's proposal of using binding arbitration to assist the parties in reaching a decision.

Two parties have submitted alternate proposals, both of which have some merit and some deficiencies. Corning proposes an approach in which the dispute would be referred to a standards setting organization accredited by the ANSI standards setting body. Bell Communications Research, Inc. (Bellcore) proposes allowing the majority of parties to the dispute to select from among optional procedures "the procedure they believe most appropriate to resolve technical disputes." It proposes three options: (1) escalation of the dispute within the issuing entity; (2) determination by a majority of those funding the standards or generic requirements development effort (excluding the disputing party

from this determination); and (3) use of a mediation approach in which an expert panel would reach a recommendation. It proposes its third option as a default mechanism.

Bellcore states (at 5) that its proposal focuses on disputes arising among its owners in discussions for development of its own generic requirements. As such, it may not be intended for general industry standards organizations. MCI submits that the Bellcore proposal is not suitable for such disputes, which necessarily involve parties with a multiplicity of interests. It would likely not meet the needs of the parties whose views fall outside the majority view. These parties by definition would not have the weight of votes to bring the issue to consensus resolution within the organization; otherwise there would not be an unresolved dispute. Bellcore's first and second options would leave such disputing parties at the mercy of the organization in which they have been unable to reach a resolution. Using a neutral party, as the Commission proposes is, thus, a better approach.

The Commission's approach is more likely than other approaches to achieve resolution within the 30-day timeframe required by the Telecommunications Act of 1996 (1996 Act).[1] Bellcore's approach of selecting from among optional approaches at the beginning of the process would delay the actual decisionmaking and could consume much of the 30 days intended for resolution of the issue.

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[1] Pub. L. No. 104-104, 110 Stat. 56 (1996).

The Commission's proposal would result in a binding decision, unlike the Corning proposal or the Bellcore default proposal. It seems that a binding result is necessary, given the context in which such a dispute would be submitted. The very reason to submit an issue to resolution by a neutral party is to achieve a decision which could not be reached by consensus in the standards organization.

In any event, the Commission's dispute resolution mechanism would be used only when the parties themselves have not already agreed on a dispute mechanism to be used for resolving their contentious issues. As the Commission notes (Notice at 2), the 1996 Act requires parties and organizations that set equipment standards to attempt to develop a dispute resolution process. Thus, parties can avoid using the Commission's dispute process if they believe it is not the appropriate vehicle for resolving their particular dispute.

Selection of the arbitrator need not be a difficult process, as contended by many of the commenters. MCI offers two approaches that might facilitate this selection, but advocates neither approach. First, the Commission could select an existing arbitration administrator to assist in these disputes. MCI knows of two such organizations: American Arbitration Association and Endispute. These organizations have experience and have established procedures for handling arbitrations, which include particulars about compensation and duties to be performed by arbitrators. They also maintain

rosters of persons qualified to conduct arbitrations.

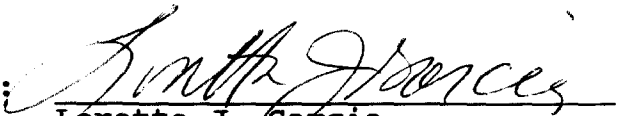
Alternatively, the Commission could itself establish procedures and maintain a list of technical experts who submit their names for this purpose. Although it would be preferable for the parties to select the arbitrator, the Commission could include a rule under which an arbitrator would be selected -- perhaps by the FCC's Chief Engineer or other technical designee -- in the event parties have not selected an arbitrator within five days after the submission for arbitration. This would allow the arbitrator to commence the decisionmaking process.

Conclusion

For the foregoing reasons, MCI supports the Commission's proposal to require binding arbitration in circumstances where the parties cannot otherwise decide on a method for resolving their disputes arising out of non-accredited equipment standards forums.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

By: 

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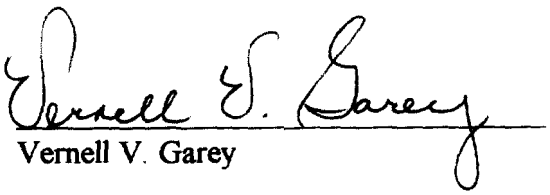
CERTIFICATE OF SERVICE

I, Vernell V. Garey, do hereby certify that a true copy of the foregoing **"REPLY COMMENTS"** in GC Docket No. 96-42 was served on April 12, 1996, by first class mail, postage prepaid, upon the following:



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